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STATE FOR PM/DTCC - BLUE LANTERN COORDINATOR

E.O. 12958: N/A  
TAGS: [ETTC](#) [KOMC](#) [FR](#)  
SUBJECT: THALES PRELIMINARY RESPONSE TO BLUE LANTERN END USE CHECK  
ON SATELLITE COMPONENTS

REF: SECSTATE 049721

1. (SBU) On July 10, Thales Alenia Space President/CEO Reynald Seznec and Thales Group Senior VP for EU and NATO cooperation met with Econ Mincouns and Econoff in response to Embassy's letter relaying DTCC request for information (reftel). They previewed their pending written response, leaving a summary memorandum of their key points(para 2). They stated that Thales Alenia Space is assembling a report on the disposition of previously licensed satellite components and technology that will be ready in "a few weeks." They will also provide "a broad description" of the three commercial telecommunications satellites sold to Chinese and Hong Kong companies but say they are constrained by both French law and commercial secrecy considerations from providing the detailed specifications and parts/components list, requested reftel. They will also provide the USG with the findings of a recent outside audit of Thales's export control compliance practices, including for its "ITAR-free" operations. They indicated that Thales Alenia Space executives and technical experts are prepared to travel to Washington to discuss this matter at DTTC's convenience.

2. (SBU) Text of Memorandum left by CEO Seznec:

Thales Alenia Space compliance with ITAR  
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Thales Alenia Space (TAS) received, on 16 June 2009, a letter dated 3 June from the US Embassy in Paris requesting information about items licensed under ITAR for use in the Spacebus 4000 programme and further details concerning three "ITAR-free" telecommunications satellites launched in China (Apstar 6, Chinasat 6B and Chinasat 9). TAS has been advised that this letter constitutes a "Blue Lantern" post-shipment check carried out in accordance with section 40A of the US Arms Control Export Act. Specifically, the letter asks for:

- a detailed report on the use and whereabouts of ITAR-controlled components supplied for the Spacebus 4000 programme;
- the specifications of Apstar 6, Chinasat 6B and Chinasat 9; and
- a detailed list of the component parts of these satellites.

The letter warns that TAS's response will have a bearing on its future licence applications.

TAS is gathering the information requested in respect of ITAR-controlled components supplied for the Spacebus 4000 programme. It has an extensive export compliance process, backed by strong management commitment, to ensure that such items are properly tracked and safeguarded. The requested information is being collated and will be communicated as soon as the work is complete.

As regards the specifications of the satellites concerned and lists of their components, there are difficulties in providing this information, related to commercial confidentiality and French law:

-- commercial confidentiality exists on account of customer/supplier rights and the strong competition in the market for telecommunications satellites.

-- French law n0 80-538 of July 16, 1980 concerning communication of economical, commercial or technical documents and information to foreign individuals or legal entities forbids persons to request, to look for or to communicate, in writing or orally, or in any other form, economical, commercial, industrial, financial or technical documents or information which could constitute evidence in foreign judicial or administrative proceedings or within the framework of such proceedings. It requires companies and individuals receiving requests for information of this nature to immediately inform the appropriate Minister.

Following consultation with the French authorities, TAS will not include in its reply to your letter the information requested concerning the specifications of the satellites and their components. TAS will however provide a broad description of the three satellites, which it is hoped will be sufficient to satisfy the US authorities that these are normal commercial products.

TAS will also communicate to State Department the results of an external review of the processes and procedures used in TAS to ensure that its ITAR-free satellites are compliant with respect to US ITAR. This review, carried out by an eminent US law firm, has just recently been completed. While confirming that TAS has a detailed and well-implemented export compliance programme, that the process for tracking parts and equipment appears strong, and that there is a high level of confidence that ITAR controlled parts are stored and selected for use properly, it also identifies some issues which need to be addressed and makes a number of recommendations for

improvement. TAS will implement these recommendations. Full details of the findings and recommendations of the review will be made available to State Department.

Based on the results of the external review and the steps which TAS will immediately put in place to implement its recommendations, TAS hopes that the US authorities will accept that it is a responsible custodian of US ITAR-controlled items and that accordingly its future licence applications will be dealt with normally.

Thales Alenia Space  
9 July 2009

Attachment: Courtesy Translation of French Law 80-538

Act n0 80-538 dated July 16, 1980 concerning the communication of economical, commercial or technical documents and information to foreign individuals or legal entities.

The French National Assembly and Senate have adopted,  
The President of the French Republic promulgates the following act:

Art. 1. The title of act n0 68-678 dated July 26, 1968 concerning the communication of documents and information to foreign authorities in the field of maritime commerce is modified as follows:

"Act concerning the communication of economical, commercial, industrial, financial or technical documents and information to foreign individuals or legal entities."

Art. 2.

II. - Article 1 of act n0 68-678 dated July 26, 1968 referred to above reads as follows:

"Art. 1. - Subject to international treaties or agreements, it is forbidden for all physical persons of French nationality, or who usually reside on the French territory, as well as all executives, representatives, agents or employees of legal persons having their head office, or an establishment, in France, to communicate to foreign public authorities, in writing, orally or under any other form, in any place, economical, commercial, industrial, financial or

technical documents or information, the communication of which would cause prejudice to the sovereignty, to the security, to the essential economic interests of France or to public order as specified by the administrative authority where necessary."

II Article 1 bis has been inserted after article 1 of act n0 68-67 8 of July 26, 1968 referred to above, and reads as follows:

"Art. 1. bis. Subject to international treaties or agreements and laws and regulations in force, it is forbidden for any person to request, to look for or to communicate, in writing or orally, or in any other form, economical, commercial, industrial, financial or technical documents or information which could constitute evidence in foreign judicial or administrative proceedings or within the framework of such proceedings."

Art. 3. Article 2 of the above mentioned act n0 68-678 dated July 26, 1968 is modified as follows:

"Art. 2. The persons mentioned in articles 1 and 1 bis must immediately inform the appropriate minister if they receive a demand concerning such communication."

STAPLETON